

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-II)
KOLKATA**

I.A.(IB) No. 1473 of 2023
C.P. (IB) No. 06/KB/2018

An application under Section 54 of the Insolvency and Bankruptcy Code, 2016

Read with

Regulation 45, 37A, 38 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;

In the matter of:

Agarwal Alloys

...OPERATIONAL CREDITOR

Versus

Yash Smelter Private Limited

...CORPORATE DEBTOR

And

In the matter of:

Yash Smelter Private Limited – In Liquidation being represented by Shashi Agarwal,
Liquidator of working for gain at 21N, Block-A, New Alipore, Kolkata - 700053

...APPLICANT

In the matter of:

1. Agarwal Alloys

...OPERATIONAL CREDITOR

2. Yash Smelter Private Limited

...CORPORATE DEBTOR

3. Yash Smelter Private Limited – In Liquidation being represented by Shashi Agarwal,
Liquidator of working for gain at 21N, Block-A, New Alipore, Kolkata - 700053

...APPLICANT/LIQUIDATOR

Date of pronouncement of order: 22.03.2024.

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CORAM:

**SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)
SHRI D. ARVIND, HON'BLE MEMBER (TECHNICAL)**

Appearances (via Video Conferencing/Physical):

Mr. A.K. Mishra, Adv.] For the Liquidator
Mr. Shashi Agarwal, CA]

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. Heard Learned Counsel for the Liquidator present.
2. The Court congregated through hybrid mode.
3. **This application has been filed by the Applicant seeking following reliefs:-**
 - a. To pass an order for the Corporate Debtor namely Yash Smelter Private Limited (CIN- U27100WB2009PTC134892) be dissolved.
 - b. To pass an order that the Stakeholder Consultation Committee will pursue pending applications being IA (I.B.C)/1020(KB)2021, IA(I.B.C)/1026(KB)2021, IA(I.B.C)/1012(KB)2021 against the three sundry debtors be passed.
4. **Brief facts of the Case:**
 - a. IA (IBC) No. 1473/KB/2023 is an application filed under Section 54(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called the "Code") read with regulation 45 of the IBBI (Liquidation Process) Regulations, 2016 (hereinafter called "the Liquidation Process Regulations") by the Liquidator of Yash Smelter Private Limited (CIN: U27100WB2009PTC134892) (hereinafter called the Corporate Debtor") praying for dissolution of the Corporate Debtor. This application is duly supported by an 'affidavit' affirmed by Mr. Shashi Agarwal, Liquidator.

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- b. This Adjudicating Authority vide its order dated 25/07/2019 on a Petition filed by the M/s Agarwal Alloys (Operational Creditor) under Section 9 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor and appointed the Applicant herein as the Interim Resolution Professional (IRP) and thereafter confirmed as Resolution Professional (RP). Subsequently, vide order dated 27/01/2020 this Adjudicating Authority had ordered liquidation of the Corporate Debtor appointing Mr. Shashi Agarwal, the Applicant, as Liquidator.
- c. Public announcement of commencement of liquidation was made in Form – B on 01/02/2020 inviting proof of claims from the stakeholders of the Corporate Debtor.
- d. The Liquidator has opened a new bank account being A/c. No. 000605034762 in the name of Corporate Debtor (Yash Smelter Private Limited in Liquidation) as per Regulation 41 of the Liquidation Process Regulations, with ICICI Bank Limited, R. N. Mukherjee Branch, Kolkata.
- e. Vide order dated 10/12/2021 passed in IA (IBC) No.1018/KB/2021 this Adjudicating Authority had granted extension of six months ending up to 09/06/2022.
- f. Thereafter, again an application being I.A.(IB) No. 1549/KB/2022 was filed for extension of Liquidation period, however it was kept pending and as already dissolution application has been filed, it has become infructuous.
- g. The Liquidator received claims form the stakeholders, constituted the stakeholders Consultation Committee on 26/03/2020 and

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finalized the List of Stakeholders on 26/03/2020 as per Regulation 31 of the Liquidation Process Regulations.

- h. The Liquidator thereafter filed Preliminary Report as per regulation 13 of the Liquidation Process Regulations as well as Assets Memorandum as per regulation 34(4) of the Liquidation Process Regulations.
- i. The Applicant/Liquidator have not conducted any auctions as there was no assets except financial assets consisting of Sundry Debtors.
- j. The Applicant said that in the meeting it was also decided to dissolve Yash Smelter Private Limited (Corporate Debtor in Liquidation) under Section 54 and other applicable provisions of Insolvency and Bankruptcy Code, read with regulation 45(3) and other applicable Regulation of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- k. In compliance of regulation 15 of the Liquidation Process Regulations, the Liquidator had filed 14 Quarterly Progress Reports from time to time before the Adjudicating Authority.
- l. The Final Report and Compliance Certificate in Form-H have been filed along with the dissolution application disclosing all the material facts and information with respect to the liquidation process of the Corporate Debtor as per mandatory requirement under regulation 45(3) of the Liquidation Process Regulations.
- m. In compliance of regulation 41 of the Liquidation Process Regulations, the Liquidator had filed copy of the bank statements pertaining to the liquidation bank account, which was opened by him in the name of the Corporate Debtor showing receipt and

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disbursement of the amount as per Section 53 of the Insolvency and Bankruptcy Code, 2016.

- n. The Applicant has also submitted a detail of consolidated distribution sheet showing realisation and distribution of assets.
 - o. In 10th CoC meeting, the SCC has agreed to continue and pursue as per Regulation 37A read with Regulation 38 of the IBBI (Liquidation Process) the application filed u/s. 60(5) of the Code for realisation of debts against the three sundry debtor after the dissolution order. Accordingly, after dissolution SCC members will take necessary steps as per the applicable provisions.
 - p. The affairs of the Corporate Debtor were completely liquidated realizing the assets, except the realization from 3 No's of Sundry Debtors, and distributing the said amount as per the provision of Section 53 of the Code in the order of priority as mandated under the Code. The Liquidation Process Account in terms of regulation 45(1) of the Liquidation Process Regulations and details thereof have been attached along with Bank Statement showing “**zero**” balance in the liquidation account.
5. Upon hearing the Liquidator and perusing the documents annexed to the application, it appears that affairs of the Corporate Debtor have been completely wound up and its assets have been completely liquidated. The bank account has also been liquidated.
6. In view of the above facts and circumstances, there is no impediment to the Corporate Debtor being dissolved, and it is ordered accordingly.

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7. The Liquidator is further directed to serve a copy of this order upon the Register of Companies, West Bengal, immediately and, in any case, within fourteen days of receipt of this order. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.
8. **IA(IBC)1473/KB/2023** and **CP(IB)/6/KB/2018** shall stand disposed of in accordance with the above directions.
9. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their learned Counsel for information and for taking necessary steps.
10. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
11. File be consigned to the records.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Signed on this, the 22nd March, 2024.

SG, Steno.